

UNITED STATES DISTRICT COURT

**Western District of New York
233 United States Courthouse
100 State Street
Rochester, New York 14614**

***Chambers of
Jonathan W. Feldman
Magistrate Judge***

585-613-4070

October 5, 2006

Peter T. Dalleo, Clerk
U.S. District Court
J. Caleb Boggs Federal Building
Lockbox 8
844 King Street
Wilmington, DE 19801-3570

RE: U.S. v. Marty Eaton
Your case number: CR 06-50-UNA

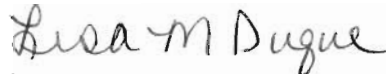
Dear Mr. Delleo:

Rule 5 proceedings were held in this District. Defendant waived identity and requested the detention hearing be held in Delaware.

Enclosed herewith are certified copies of the docket sheet, the financial affidavit, the waiver of Rule 5 proceedings and the commitment to another district.

If you have any questions, please feel free to contact me at 585-613-4070.

Sincerely,



Lisa M. Duque
Courtroom Deputy

lmd
Enclosures

cc: Richard Resnick, AUSA - Rochester
Elizabeth Switzer, Esq.
US Probation
US Marshals Service

PLEASE RETURN THE COPY OF THIS LETTER INDICATING YOUR RECEIPT OF THESE DOCUMENTS.

Signature _____

Date: _____

**U.S. DISTRICT COURT
WESTERN DISTRICT OF NEW YORK [LIVE] (Rochester)
CRIMINAL DOCKET FOR CASE #: 6:06-mj-00645-JWF-ALL
Internal Use Only**

Case title: USA v. Eaton

Date Filed: 09/28/2006

Assigned to: Hon. Jonathan W. Feldman

Defendant

Marty Eaton (1)
also known as
Dmx (1)

represented by **Elizabeth J. Switzer**
Federal Public Defender
28 East Main Street
Suite 400
Rochester, NY 14614
US
585-263-6201
Email: elizabeth_switzer@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender Appointment

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints


None

Disposition







Plaintiff

USA

represented by **Richard A. Resnick**
U.S. Attorney's Office
100 State Street
Room 620
Rochester, NY 14614

**ATTEST: A TRUE COPY
U.S. DISTRICT COURT, WDNY
RODNEY C. EARLY, CLERK**
BY 
Deputy Clerk

585-263-6760, ext. 2241
 Fax: 585-263-6226
 Email: richard.resnick@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/28/2006	 <u>3</u>	Received copies of arrest warrant and redacted indictment filed 5/2/06 for the District of Delaware as to Marty Eaton (LMD,) Additional attachment(s) added on 10/5/2006 (LMD,). (Entered: 09/29/2006)
09/28/2006	 <u>1</u>	Minute Entry for proceedings held before Judge Jonathan W. Feldman :Initial Appearance in Rule 5(c)(3) Proceedings as to Marty Eaton held on 9/28/2006. Def. requests court appointed counsel. Court appoints Elizabeth Switzer from the Federal Public Defender's Office. Arraignment held. Not guilty plea entered. Govt. moves for detention pursuant to 18:3142(f)(1) and (f)(2). Detention Hearing set for 10/3/2006 02:00 PM in Courtroom 3 before Hon. Jonathan W. Feldman. (digital recording.) (LMD,) (Entered: 09/29/2006)
09/28/2006	<u>2</u>	CJA 23 Financial Affidavit by Marty Eaton. THIS IS A PRIVATE ENTRY. (LMD,) (Entered: 10/02/2006)
10/03/2006	 <u>4</u>	Minute Entry for proceedings held before Judge Jonathan W. Feldman : Matter on for detention hearing hearing. Detention hearing not held. Status Conference as to Marty Eaton held on 10/3/2006. Def. requests the detention hearing be held in Delaware. Def. waives identity. Def. held to answer in Delaware. (digital recording.) (LMD,) (Entered: 10/05/2006)
10/03/2006		COMMITMENT to another district Issued as to Marty Eaton (LMD,) (Entered: 10/05/2006)
10/05/2006	 <u>5</u>	WAIVER of Rule 5(c)(3) Hearing by Marty Eaton (LMD,) (Entered: 10/05/2006)
10/05/2006		Rule 5(c)(3) Documents mailed to Peter T. Dalleo, Clerk; J. Caleb Boggs Federal Building, Lockbox 8; 844 King Street, Wilmington DE 19801-3570 as to Marty Eaton (LMD,) (Entered: 10/05/2006)

SCJA 23 Rev. 5/98		FINANCIAL AFFIDAVIT	
IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE			
IN THE CASE OF		FOR	
V.S.		AT	
PERSON REPRESENTED (Show your full name)		LOCATION NUMBER	
MARTY EATON		<div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
CHARGE/OFFENSE (describe if applicable & check box →)		<div style="border: 1px solid black; padding: 2px;"> 1 <input type="checkbox"/> Defendant—Adult 2 <input type="checkbox"/> Defendant - Juvenile 3 <input type="checkbox"/> Appellant 4 <input type="checkbox"/> Probation Violator 5 <input type="checkbox"/> Parole Violator 6 <input type="checkbox"/> Habeas Petitioner 7 <input type="checkbox"/> 2255 Petitioner 8 <input type="checkbox"/> Material Witness 9 <input type="checkbox"/> Other </div>	
<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor		DOCKET NUMBERS Magistrate: 06M1645 District Court: Court of Appeals:	

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY			
ASSETS	EMPLOY- MENT	Are you now employed? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Am Self-Employed	
		Name and address of employer: _____	
		IF YES, how much do you earn per month? \$ _____	IF NO, give month and year of last employment _____
		How much did you earn per month? \$ _____	
OTHER INCOME	If married is your Spouse employed? <input type="checkbox"/> Yes <input type="checkbox"/> No		
	IF YES, how much does your Spouse earn per month? \$ _____		
	If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____		
	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
CASH	IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES		
	RECEIVED _____ SOURCES _____		
	Have you any cash on hand or money in savings or checking accounts? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ _____		
	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
PROPERTY	IF YES, GIVE THE VALUE AND \$ DESCRIBE IT		
	VALUE _____ DESCRIPTION _____		

DEPENDENTS	MARITAL STATUS		Total No. of Dependents
	<input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED		List persons you actually support and your relationship to them
	_____		_____
	_____		_____
DEBTS & MONTHLY BILLS	APARTMENT OR HOME:		Creditors
	Total Debt		Monthly Paymt.
	\$ _____		\$ _____
	\$ _____		\$ _____

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date)

 U.S. DISTRICT COURT
 RODNEY C. EATON
 SIGNATURE OF DEFENDANT
 (OR PERSON REPRESENTED)

By

Deputy Clerk

Original Filed

9/28/06

9/28/06

Marty Eaton

#2

06m5645

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

7

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 06- 50 - UNA

WILLIE BROWN, MARK TATMAN,
MARTY EATON a/k/a "Dmx",
CRAIG DURHAM,
JOHN DOE a/k/a "Auk", ASHLEY N.
HARRISON a/k/a "Nikki", and
BRITTNEY ROBINSON,

Defendants.

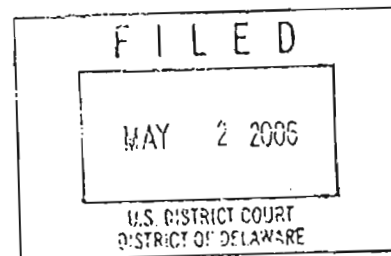
REDACTED

INDICTMENT

The Grand Jury for the District of Delaware charges that:

COUNT I

*Conspiracy to Distribute Crack Cocaine
in and around Dover, Delaware*



1. From in and around November, 2005, through in or around April, 2006, WILLIE BROWN engaged in the distribution of more than 50 grams of a mixture and substance containing a detectable amount of cocaine base, also known as "crack", in and around Dover, Delaware. MARK TATMAN, MARTY EATON a/k/a "Dmx", CRAIG DURHAM, and JOHN DOE, a/k/a "Auk", participated in this enterprise by distributing crack cocaine on BROWN's behalf. ASHLEY N. HARRISON a/k/a "Nikki" made her Dover residence available to BROWN for use as a location where some sales to BROWN's customers were made. BRITTNEY ROBINSON used her apartment to secrete drugs for BROWN, and acted as a courier for BROWN.

#3

Charging Paragraph

2. From in or about November 2005 through in or about April 2006, in the State and District of Delaware, WILLIE BROWN, MARK TATMAN, MARTY EATON a/k/a "Dmx", CRAIG DURHAM, JOHN DOE, a/ka "Auk", ASHLEY N. HARRISON a/k/a "Nikki" and BRITTNEY ROBINSON, defendants herein, did knowingly conspire together and with each other, and with other persons known and unknown to the Grand Jury, to distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of cocaine base, a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A).

All in violation of Title 21, United States Code, Section 846 and Title 18, United States Code, Section 2.

COUNT II

3. On or about November 30, 2005, in the State and District of Delaware, WILLIE BROWN, defendant herein, did knowingly distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of cocaine base, a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A), and Title 18, United States Code, Section 2.

COUNT III

4. On or about December 7, 2005, in the State and District of Delaware, WILLIE BROWN, MARK TATMAN, and MARTY EATON a/k/a "Dmx", defendants herein, did knowingly distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of cocaine base, a Schedule II narcotic controlled substance, in violation of

Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A), and Title 18, United States Code, Section 2.

COUNT IV

5. On or about March 16, 2006, in the State and District of Delaware, WILLIE BROWN and JOHN DOE, a/k/a "Auk", defendants herein, did knowingly distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of cocaine base, a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A), and Title 18, United States Code, Section 2.

COUNT V

6. On or about March 30, 2006, in the State and District of Delaware, WILLIE BROWN and CRAIG DURHAM, defendants herein, did knowingly distribute fifty (50) grams or more of a mixture and substance containing a detectable amount of cocaine base, a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(A), and Title 18, United States Code, Section 2.

NOTICE OF FORFEITURE

7. Upon conviction of one or more of the controlled substance offenses alleged in Counts I-V above, WILLIE BROWN, MARK TATMAN, MARTY EATON a/k/a "Dmx", CRAIG DURHAM, JOHN DOE, a/ka "AUK", ASHLEY N. HARRISON a/k/ "Nikki" and BRITTNEY ROBINSON, defendants herein, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the said violations and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said violations.

8. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

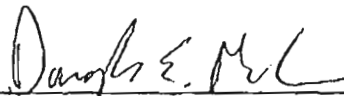
- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

A TRUE BILL:

Foreperson

COLM F. CONNOLLY
United States Attorney

BY: 
Douglas E. McCann
Assistant United States Attorney

Dated: May 2, 2006

UNITED STATES DISTRICT COURT

WESTERN

DISTRICT OF

NEW YORK

UNITED STATES OF AMERICA

WAIVER OF RULE 5 & 5.1 HEARINGS

(Complaint/Indictment)

V.

CASE NUMBER: 06mj645MARTY EATON

Defendant

CHARGING DISTRICTS

CASE NUMBER: CR 06-50-3-UNAI understand that charges are pending in the Judicial District of Delawarealleging violation of 21:841(a)(1), (b)(1)(A) and 21:846 and that I have been arrested in this district and
(Title and Section)

taken before a judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) a preliminary hearing (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) Request transfer of the proceedings to this district under Rule 20, Fed. R. Crim. P., in order to plead guilty.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

- ☒ identity hearing
- ☐ preliminary hearing
- ☐ identity hearing but request a preliminary hearing be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

OCTOBER 3, 2006September 28, 2006

Date

Defendant

Defense Counsel

#5

Waivers6:06-mj-00645-JWF USA v. Eaton**U.S. DISTRICT COURT****WESTERN DISTRICT OF NEW YORK [LIVE]****Notice of Electronic Filing**

The following transaction was received from LMD, entered on 10/5/2006 at 4:44 PM EDT and filed on 10/5/2006

Case Name: USA v. Eaton**Case Number:** 6:06-mj-645**Filer:** Dft No. 1 - Marty Eaton**Document Number:** 5**Docket Text:**

WAIVER of Rule 5(c)(3) Hearing by Marty Eaton (LMD,)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**n/a**Electronic document Stamp:**

[STAMP dcecfStamp_ID=1042579058 [Date=10/5/2006] [FileNumber=685227-0]

[cc87adaa31ff2d78f87b30cae104e1bde40db144a9cb2fffa140c9ecd0b2159dc811

ac340802e4e905bebe2eb7673654c6d7ada5fbe7ae9504927dbb9a919fc9]]

6:06-mj-645-1 Notice will be electronically mailed to:

Richard A. Resnick richard.resnick@usdoj.gov, kim.pettit@usdoj.gov;
marylyn.rodriguez@usdoj.gov; sean.eldridge@usdoj.gov

Elizabeth J. Switzer elizabeth_switzer@fd.org, judy_middleton@fd.org

6:06-mj-645-1 Notice will be delivered by other means to:

ATTEST: A TRUE COPY
U.S. DISTRICT COURT, WDNY
RODNEY C. EARLY, CLERK
By Rita J. Ryan
Deputy Clerk
Original Filed 10/5/06

Issued

✓

AO 94 (Rev. 12/03) Commitment to Another District

UNITED STATES DISTRICT COURT			
WESTERN		District of NEW YORK	
UNITED STATES OF AMERICA V. MARTY EATON		COMMITMENT TO ANOTHER DISTRICT	
DOCKET NUMBER		MAGISTRATE JUDGE CASE NUMBER	
District of Arrest	District of Offense CR 06-50-3-UNA	District of Arrest 06mj645	District of Offense
CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN <input checked="" type="checkbox"/> Indictment <input type="checkbox"/> Information <input type="checkbox"/> Complaint <input type="checkbox"/> Other (specify)			
charging a violation of 21 U.S.C. § 841(a)(1), (b)(1)(A) and 846			
DISTRICT OF OFFENSE District of Delaware			
DESCRIPTION OF CHARGES: Conspiracy to distribute cocaine base and distribution of cocaine base			
CURRENT BOND STATUS: <input type="checkbox"/> Bail fixed at and conditions were not met <input type="checkbox"/> Government moved for detention and defendant detained after hearing in District of Arrest <input checked="" type="checkbox"/> Government moved for detention and defendant detained pending detention hearing in District of <input type="checkbox"/> Other (specify)			
Representation: <input type="checkbox"/> Retained Own Counsel <input checked="" type="checkbox"/> Federal Defender Organization <input type="checkbox"/> CJA Attorney <input type="checkbox"/> None			
Interpreter Required? <input type="checkbox"/> No <input type="checkbox"/> Yes Language:			
<div style="text-align: right; margin-bottom: 10px;">DISTRICT OF</div> <div style="text-align: left; margin-bottom: 10px;">TO: THE UNITED STATES MARSHAL</div> <p>You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;"> <u>October 3, 2006</u> Date </div> <div style="text-align: center;"> Judge </div> </div>			
RETURN			
This commitment was received and executed as follows:			
DATE COMMITMENT ORDER RECEIVED		PLACE OF COMMITMENT	
DATE		(BY) DEPUTY MARSHAL	

ATTEST: A TRUE COPY
 U.S. DISTRICT COURT, WDNY
 RODNEY C. EARLY, CLERK
 BY Deputy Clerk